

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

NEW MEXICO TOP ORGANICS—ULTRA
HEALTH, INC., and JACOB R.
CANDELARIA, TOMAS LORENZO
VALENCIA, BRYCE BRYANT-FLYNN,
MATIAS TRUJILLO, as father and guardian of
MT, a minor, ERICA ROWLAND, and ARIEL
McDOUGAL, on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

1:22-cv-00546-MV-LF

BLUE CROSS AND BLUE SHIELD OF NEW
MEXICO, TRUE HEALTH NEW MEXICO,
INC., CIGNA HEALTH AND LIFE
INSURANCE COMPANY, MOLINA
HEALTHCARE OF NEW MEXICO, INC.,
PRESBYTERIAN HEALTH PLAN, INC.,
PRESBYTERIAN INSURANCE COMPANY,
INC., and WESTERN SKY COMMUNITY
CARE, INC.,

Defendants.

**ORDER OVERRULING OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE’S PROPOSED FINDINGS AND
RECOMMENDED DISPOSITION**

The Magistrate Judge filed her Proposed Findings and Recommended Disposition (“PFRD”) on January 24, 2024. Doc. 61. The PFRD notified the parties of their ability to file objections within fourteen days, and that failure to do so waived appellate review. *Id.* at 29. On February 7, 2024, Plaintiffs filed objections to the Magistrate Judge’s PFRD. Doc. 63. Defendants filed a response to Plaintiffs’ objections on February 21, 2024. Doc. 65.

Pursuant to Rule 72(b) of the Federal Rules of Civil Procedure, the Court has conducted a de novo review of the record and all parts of the Magistrate Judge’s PFRD that have been

properly objected to.¹ After conducting this de novo review and having thoroughly considered the Magistrate Judge's PFRD and the objections, the Court finds no reason either in law or fact to depart from the Magistrate Judge's recommended disposition.

IT IS THEREFORE ORDERED AS FOLLOWS:

1. Plaintiffs' objections are OVERRULED;
2. The Magistrate Judge's Proposed Findings and Recommended Disposition (Doc. 61) are ADOPTED;
3. The Court DENIES both Plaintiffs' Motion to Remand (Doc. 24) and Plaintiffs' Second Motion to Remand or Alternatively Motion for Leave to Conduct Discovery to Determine Subject Matter Jurisdiction (Doc. 40).
4. The Court further DENIES Defendants' Motion to Disregard New Evidence and Arguments in Plaintiffs' Reply in Support of Remand, or in the Alternative, for Leave to File a Surreply (Doc. 39) as unnecessary.



MARTHA VÁZQUEZ
SENIOR UNITED STATES DISTRICT JUDGE

¹ In their response, Defendants suggest that a denial of a motion to remand is “non-dispositive,” and the Court need only review the magistrate judge’s recommendation denying a motion to remand under the “clearly erroneous or contrary to law” standard set forth in FED. R. CIV. P. 72(a). Doc. 65 at 7–8. The Court need not decide whether the magistrate judge’s recommended denial of the motion to remand is dispositive because under either standard, I agree with the magistrate’s findings and recommendation.